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## The end of ATSIC and the future administration of Indigenous affairs

This paper discusses a range of issues raised by the government's announcement in April 2004 that it would abolish the Aboriginal and Torres Strait Islander Commission (ATSIC), and the Labor Opposition's announcement a few weeks earlier that it would do likewise in government. It provides a brief history of the administration of Indigenous affairs before ATSIC was established in 1989; an overview of how ATSIC worked, including its roles and functions, structure and governance, and funding arrangements; and an outline of the government's plans for Indigenous affairs policy-making and service-delivery post-ATSIC. It also canvasses a range of broader issues raised by ATSIC's abolition, including the question of whether there is a continuing role for an elected Indigenous representative body in the Australian political system.

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## Executive summary

On 15 April 2004, the Prime Minister, Mr Howard, and the Minister for Immigration and Multicultural and Indigenous Affairs, Senator Amanda Vanstone, announced the government's intention to abolish the Aboriginal and Torres Strait Islander Commission (ATSIC). This followed the Australian Labor Party's announcement a few weeks earlier that it would do likewise if elected to government later this year. Consequently, what was seen as a bold experiment in the administration of Indigenous affairs when ATSIC was established in 1989 seems certain to be drawing to a close.

The imminent abolition of ATSIC raises many issues about the future of policy-making and service delivery in Indigenous affairs. To put these issues into context, this Current Issues Brief provides a brief history of the administration of Indigenous affairs prior to ATSIC's establishment in 1989; it discusses how ATSIC worked, in particular its roles and functions, structure and governance, and funding arrangements; and it outlines the government's plans for Indigenous affairs policy-making and service delivery post-ATSIC. It also canvasses a range of broader issues which the abolition of ATSIC raises, such as those surrounding the shift towards 'mainstreamed' service delivery, issues to do with federalism, and questions about 'self-determination' and the place of elected Indigenous representative bodies in the Australian political system.

## Introduction

The Howard Government's recent decision to abolish ATSIC, and the Labor Opposition's announcement that it would do likewise if elected to government, have provoked a great deal of discussion about policy-making and service delivery in Indigenous affairs: about how the proposed arrangements compare to earlier models of service delivery and policy advice; and about the likely effect of the abolition of ATSIC on outcomes in Indigenous affairs. They have also raised the question of whether there is a continuing role for any type of elected, Indigenous-only body.

To put these issues into context, this Current Issues Brief is a supplement to an earlier series of papers,<sup>1</sup> and provides a description of the various models for the administration of—and involvement of Indigenous people in—Indigenous affairs policy since 1972. It discusses the government's plans for Indigenous affairs policy-making and service delivery post-ATSIC. It also canvasses a series of arguments about the virtues (and vices) of 'mainstreamed' and 'separate' policy-making and service delivery models.

## Indigenous affairs before ATSIC

This part of the paper provides an overview of administrative and service delivery arrangements in Indigenous affairs prior to the establishment of ATSIC in 1989. It briefly discusses the situation before the referendum of 1967; the limited Commonwealth activity in the Indigenous affairs portfolio between 1967 and 1972; and ATSIC's various

precursors in Indigenous affairs policy-making and service delivery between 1972 and 1990.<sup>2</sup>

## **1967–1972**

Before 1967, the Commonwealth's only involvement in Indigenous affairs was in the Northern Territory and the ACT. The main Commonwealth agency was thus the Department of the Interior, which had responsibility for territory matters. The main responsibility for policy-making with respect to Indigenous people's welfare was with the States.<sup>3</sup> Indigenous input into policy-making (which was geared towards the assimilation of Indigenous people into non-Indigenous society) was extremely limited, consisting only of informal advice which governments could easily choose to ignore. In effect, Indigenous affairs prior to 1967 were entirely 'mainstreamed'.

After the 1967 referendum, which removed the impediment in s. 51 of the Australian Constitution to the Commonwealth Government making special laws with respect to Aborigines, the Commonwealth began to take a limited role in Indigenous affairs policy-making and service delivery (with the states maintaining the principal policy-making role).<sup>4</sup> Firstly, Prime Minister Gorton appointed W.C. (Bill) Wentworth 'Minister in Charge of Aboriginal Affairs under the Prime Minister'. The new Minister was thus in charge of no department which had sole responsibility for Indigenous affairs, nor did he have much influence in the Northern Territory, which was primarily the responsibility of the Department of the Interior.<sup>5</sup> Secondly, the Coalition Government established the Council for Aboriginal Affairs (CAA), which was comprised of three non-Indigenous men appointed by the Government.<sup>6</sup> The CAA's role was to advise the government on Indigenous affairs policy, and recommend ways the Commonwealth and state governments could work together over Indigenous issues. Thirdly, the Coalition Government established a small Office of Aboriginal Affairs (OAA), initially within the Prime Minister's Department.<sup>7</sup> Its role was to implement policy, facilitate liaison between the Commonwealth and the states, and administer legislation within the Indigenous affairs portfolio.<sup>8</sup> Thus, Indigenous people had no formal role within the structures through which Indigenous affairs policy advice was delivered to the Coalition Government between 1967 and 1972 (though the CAA did consult with Indigenous communities).<sup>9</sup>

## **1972–1990**

It was not until the Whitlam Government came to power in December 1972 that the Commonwealth Government began to take a significant role in policy-making and service delivery in Indigenous affairs. It was also not until the Whitlam era that Indigenous people themselves began to have a presence in the structures through which the government received advice on Indigenous affairs policy.

## The Department of Aboriginal Affairs and the policy of 'self-determination'

The first major innovation in Indigenous affairs under the Whitlam government was the establishment of the Department of Aboriginal Affairs (DAA) in 1973. The DAA took over the functions of both the CAA and the OAA. Subsequently, the DAA's role was both to provide advice to the Government on Indigenous affairs policy, as well as to implement and administer Indigenous affairs policy. It was the central Commonwealth Indigenous affairs agency until ATSIC commenced operations in March 1990.

The creation of the DAA also marked an expansion in policy activity, which coincided with a shift away from 'assimilation' and 'integration' as the policy frameworks in Indigenous affairs.<sup>10</sup> Instead, the Whitlam Government introduced the policy of 'self-determination' as the principle which underlay the government's approach to policy-making in Indigenous affairs. Broadly conceived, 'self-determination' is the principle of Indigenous people being involved in decision-making about, and the management of, their own affairs.<sup>11</sup> The principle of self-determination underlay Commonwealth Indigenous affairs policy until the advent of the Howard Government (though the Fraser Government's preferred term was 'self-management').<sup>12</sup> After 1996, the Howard Government's first Indigenous Affairs Minister, Senator John Herron, began referring to the idea of 'self-empowerment' instead.<sup>13</sup> It can be argued that the present government's policies in the area of Indigenous affairs have marked a significant shift away from the policy of self-determination.<sup>14</sup>

## National Aboriginal Consultative Committee

The policies of self-determination and self-management led to what academic Will Sanders describes as two experiments in the creation of 'government-sponsored Aboriginal representative structures': the National Aboriginal Consultative Committee (NACC), and the National Aboriginal Conference (NAC).<sup>15</sup>

The NACC was established by the Whitlam Government in early 1973. It was an advisory body only, but significantly, it was the first national body *elected* by Indigenous people themselves. The NACC's main role was to advise the Commonwealth Government on Indigenous affairs policy. After its creation, there was some pressure—both from the NACC itself and from commentators such as former CAA Chair H.C. Coombs—for the NACC to be given at least some executive powers to manage or implement policy. However, it remained only an advisory body during its short life.

The NACC was a troubled body for most of its relatively short-lived existence. Its relations with the Whitlam Government were strained from the beginning: for example, when the NACC announced its intention to seek more control over Indigenous affairs than its advisory role allowed, and demanded control over the Indigenous affairs budget, the Minister for Aboriginal Affairs James Cavanagh responded by threatening to withdraw its funding.<sup>16</sup> There was dissatisfaction amongst the Indigenous population with the NACC's electoral system, and criticism that the electorates were too large, and that 'first past the

post' voting allowed some candidates to be elected with a minority of votes.<sup>17</sup> There was also some rivalry between the NACC and the DAA over their respective roles and functions.<sup>18</sup> Subsequently, after the change of government in 1975, the Fraser Government commissioned a review of the NACC, which found that the NACC had not been an effective mechanism for providing advice to the Minister, or for consulting with Indigenous people.<sup>19</sup> As a result, the NACC was disbanded in 1977, and replaced with another body, the NAC.

### **National Aboriginal Conference**

Like the NACC, the NAC was an elected body.<sup>20</sup> Although it differed from its predecessor, the principle of its being an all-Indigenous, elected body, was held by the Government to still be an important part of its structure. Its job was to serve as a 'channel of communication' between Indigenous communities and the Commonwealth Government, and to provide advice to the federal minister.<sup>21</sup> Like the NACC before it, however, the NAC had difficulty successfully fulfilling this role. Its relationship with the Fraser Government was always uneasy, as the Government was 'seemingly just as uncertain as its predecessor about the correct role for such an Aboriginal body'.<sup>22</sup>

Within 12 months of the Hawke Government being elected in 1983, an antagonistic relationship between government and the NAC had developed. For example, the NAC criticised the Government for inadequately resourcing the body, and accused the Hawke Government's first Minister for Aboriginal Affairs, Clyde Holding, of meddling in its affairs.<sup>23</sup> At the same time, concerns mirroring those which had been raised about the NACC almost a decade earlier had emerged from within Indigenous communities about the NAC: NAC members were not always seen as being well-connected to their constituent communities.<sup>24</sup> In response to these concerns, the Labor platform in the 1983 election had included a commitment to restructure the NAC 'in order to increase its effectiveness'.<sup>25</sup> Consequently, shortly after his appointment as Minister for Aboriginal Affairs, Clyde Holding commissioned a review of the NAC, which found that the NAC was 'not a significant instrument of Aboriginal political influence and power'.<sup>26</sup> Shortly after the review's recommendations were made public, the NAC was embroiled in further controversy when an audit of its operations revealed serious deficiencies in the body's financial administration. As a result, Holding announced the termination of the NAC in April 1985.

Despite the difficulties which eventually led to its disbandment, during its life the NAC took on a prominent role as advocate of Indigenous political rights, just as ATSIC did after it commenced operations in 1990 (unlike the NACC, which had not had sufficient time to establish itself as a national political voice before it was disbanded).<sup>27</sup> For example, the NAC was heavily involved in the treaty debates of the 1970s and early 1980s.

## The Aboriginal Development Commission

In 1980, another important body in the Indigenous affairs portfolio was established: the Aboriginal Development Commission (ADC). The ADC was a statutory authority, run by a board of ten part-time Indigenous commissioners appointed by the government. The ADC managed a limited range of development-oriented Indigenous affairs programs, including the administration of loans and grants for Indigenous housing and business enterprises, until ATSIC commenced operations in 1990.<sup>28</sup>

Thus, during the period 1972–1990, prior to ATSIC’s establishment, although there was a range of bodies and agencies involved in policy-making and service delivery in the Indigenous affairs area, it is important to note that there was almost always an *elected* national Indigenous body providing advice to government.<sup>29</sup> Significantly, though, these ‘early experiments in ... government-sponsored Aboriginal representative structures’ were often plagued by criticisms from within their Indigenous constituencies, and difficult relations with government.<sup>30</sup>

## The establishment of ATSIC

It was two years after the NAC had been disbanded that the Hawke Government eventually announced its intention to form a replacement body—the Aboriginal and Torres Strait Islander Commission (ATSIC). The Government’s proposal was for a body to combine both representative and executive roles, through an organisation of regional councils and a national board elected by Indigenous people, which would assume the program administration roles of both the DAA and the ADC.<sup>31</sup> The new body was seen by the Government as a major advance in the administration of Indigenous affairs.

Following an extensive consultation process on its ATSIC proposal, the Hawke Government’s ATSIC legislation was originally introduced into the Parliament in August 1988. However, the Australian Democrats and the Coalition combined in the Senate to establish a Select Committee inquiry into the ATSIC proposal and the dismissal by the Government of the ADC’s Indigenous commissioners a few months earlier.<sup>32</sup> Consequently, the passage of the ATSIC legislation was delayed. At the same time, the administration and financial transparency of existing Indigenous affairs agencies more generally were the focus of a great deal of public and political attention.<sup>33</sup> As a result, Minister Hand withdrew the original ATSIC Bill and introduced revised legislation—featuring considerably stronger public accountability mechanisms—into the Parliament in May 1989.

The increased emphasis on accountability did not guarantee the swift passage of the legislation through the Parliament, however. The John Howard-led Opposition was vehemently opposed to the concept of ATSIC, because of their objection to any body which was perceived to give Indigenous people ‘separate’ status. For instance, many Coalition parliamentarians saw ATSIC as a kind of ‘black parliament’.<sup>34</sup> In April 1989, Mr



Howard expressed his opposition to the ATSIC proposal in a speech to the House of Representatives as follows:

I take the opportunity of saying again that if the Government wants to divide Australian against Australian, if it wants to create a black nation within the Australian nation, it should go ahead with its Aboriginal and Torres Strait Islander Commission (ATSIC) legislation ... In the process it will be doing a monumental disservice to the Australian community ... If there is one thing, above everything else, that we in this Parliament should regard as our sacred and absolute duty, it is the preservation of the unity of the Australian people. The ATSIC legislation strikes at the heart of the unity of the Australian people. In the name of righting the wrongs done against Aboriginal people, the legislation adopts the misguided notion of believing that if one creates a parliament within the Australian community for Aboriginal people, one will solve and meet all of those problems.<sup>35</sup>

In the six months following the introduction of the ATSIC Bill, over 90 amendments were made to the legislation, making the Bill the second-most amended piece of legislation to that time to have passed through the Parliament since Federation. The amount of time taken to get the legislation through the Parliament further illustrates the level of uncertainty at that time about the ATSIC concept. The Democrats supported the amended legislation in the Senate, however, and the *Aboriginal and Torres Strait Islander Commission Act 1989* was eventually passed by the Parliament in early November 1989.

## How ATSIC worked

Following the passage of the ATSIC legislation in late 1989, the Government appointed Lois (Lowitja) O'Donoghue as ATSIC's first Chairperson, and ATSIC opened its doors for business in March 1990. This part of the paper provides a brief overview of the operation of ATSIC: its key roles and functions; its structure and governance; and its funding and accountability arrangements.

## Roles and functions

Section 3 of the *Aboriginal and Torres Strait Islander Commission Act 1989* sets out ATSIC's objectives as follows:

- to ensure maximum participation of Aboriginal and Torres Strait Islander people in government policy formulation and implementation
- to promote Indigenous self-management and self-sufficiency
- to further Indigenous economic, social and cultural development, and
- to ensure co-ordination of Commonwealth, state, territory and local government policy affecting Indigenous people.<sup>36</sup>

In order to achieve these objectives, ATSIC was to:

- *advise* governments at all levels on Indigenous issues
- *advocate* the recognition of Indigenous rights on behalf of Indigenous peoples regionally, nationally and internationally, and
- *deliver* and *monitor* some of the Commonwealth government's Indigenous programs and services.<sup>37</sup>

The combination of both representative and executive roles was billed as one of ATSIC's key strengths by the Labor Government at the time of its establishment. This was because this combination of roles appeared to represent the gaining of genuine Indigenous power over management of, and decision-making in, Indigenous affairs for the first time. However, the combination of these roles had the potential to be a constant source of tension. While ATSIC was to be accountable to the Government, for example in its service delivery and monitoring role, at the same time its elected arm was to be accountable to its Indigenous constituency.

## Structure and governance

ATSIC's original structure consisted of two parts: a representative arm, and an administrative arm, though the original structure was significantly altered by the creation of a separate service delivery agency, Aboriginal and Torres Strait Islander Services (ATSIS), in 2003 (see below).

The basis of ATSIC's representative structure was the 35 ATSIC Regional Councils, elected every three years. The Regional Councils were grouped into 16 zones, each of which elected one full-time Commissioner to sit on the ATSIC Board.<sup>38</sup> Another Commissioner was elected from the Torres Strait, which comprised its own zone. The ATSIC Chair was appointed, though after 1999 Commissioners elected the Chair.<sup>39</sup>

ATSIC's administrative arm consisted of several hundred Commonwealth public servants, engaged by ATSIC under the *Public Service Act*, and headed by a Chief Executive Officer (CEO) appointed by the Minister. The role of the administrative arm was to support ATSIC's elected representatives and administer the various programs for which ATSIC had responsibility. In the original ATSIC structure, the administrative arm reported to the Minister through the CEO, but took direction from ATSIC's elected officials.

In April 2003, the Minister for Indigenous Affairs, Philip Ruddock, announced the establishment of a new executive agency, ATSIS, to administer ATSIC's programs and make individual decisions about grants and other funding to Indigenous organisations from 1 July 2003. This was in response to perceptions of poor management within ATSIC's existing structure, and in particular the perceived potential for conflicts of interest in decision-making over ATSIC funding. The stated aim of the creation of ATSIS

was to separate the role of policy development and decision-making from the job of implementation. While Minister Ruddock emphasised at the time that the establishment of ATSIIS did not represent a move towards ‘mainstreaming’ of ATSIC’s programs, the creation of ATSIIS did represent a significant departure from ATSIC’s original ideals (and foreshadowed the announcement of ATSIC’s abolition a year later), insofar as it removed direct control of ATSIC’s budget and its programs away from ATSIC’s elected representatives.<sup>40</sup>

## Funding

Although ATSIC seemed to be a significant step along the self-determination path, it was constrained in many ways, particularly in regard to its funding. From its first days, ATSIC was subject to intense public and political scrutiny, no more so than in the areas of expenditure and accountability. The levels of funding ATSIC received, and what it could and could not do with the money, were the subject of a series of misconceptions about ATSIC over the course of its 14-year existence. Issues of funding were also the focal point for debates about ATSIC’s effectiveness. Even though ATSIC was not the primary service provider in many areas—such as health care and education—it was often blamed when not enough was seen to be done in these areas.

In 2003–04, ATSIC/ATSIIS received approximately \$1.3 billion in funding from the Commonwealth Government. This represented approximately 46 per cent of the total \$2.8 billion identifiable Commonwealth expenditure on Indigenous affairs in 2003–04. Yet one of the particular misconceptions about ATSIC was that it was responsible for *all* Commonwealth spending on Indigenous programs, when this was never the case (the rest of the Commonwealth’s Indigenous affairs budget—around \$1.5 billion in 2003–04—was spent through other agencies, such as in the education, health, and social security portfolios).<sup>41</sup>

The majority of ATSIC’s budget was spent on economic development programs, including the Community Development Employment Project (CDEP) scheme. ATSIC’s second biggest area of expenditure (usually around one-third of ATSIC’s budget) was spent on programs aimed at improving Indigenous peoples’ social and physical wellbeing, including the Community Housing and Infrastructure Program (CHIP). The remaining 20 per cent or so was spent on a range of programs including those geared towards the preservation and promotion of Indigenous culture and heritage, and the advancement of Indigenous rights and equity.<sup>42</sup>

It is important to note that the vast majority of ATSIC’s budget (around 85 per cent, or approximately \$1.1 billion in 2003–04) was quarantined by the government for expenditure on particular programs (including CDEP and CHIP). What this meant was that the proportion of ATSIC’s spending which was actually at its own discretion, that is, not predetermined by the government, was relatively small. The size of ATSIC’s discretionary budget as a proportion of total identifiable Commonwealth expenditure on Indigenous affairs was therefore even smaller still. Yet, perhaps because of its unique blend of

executive and representative functions, and its highly visible presence in an area where ‘success’ is difficult to define and therefore hard to achieve, ATSIC was an easily identifiable symbol of the perceived failure of government spending on Indigenous-specific programs to yield sufficiently positive results. Because of misconceptions around ATSIC’s funding, many of ATSIC’s elected representatives complained that it was the scapegoat for the inadequacies of *all* levels of government in Indigenous affairs.<sup>43</sup> Nonetheless, it is the perception of ATSIC itself as a failure that has provided the rationale for the Government’s proposal to abolish the peak Indigenous body (see below).

In recent times, there seems to have developed a perception of ATSIC as being a body that has not only failed to deliver, but which seemed to be variously ‘out of control’ or ‘in crisis’. Even the Labor Party, which established ATSIC in 1989, came to the view that the body should be dismantled.<sup>44</sup> This perception seems to have been fuelled by the various allegations of assault, sexual assault, and fraud made against some of ATSIC’s most senior office-bearers over the last few years.<sup>45</sup> Elected bodies tend to draw attention to their own failures (or perceived failures) in a way that mainstreamed service delivery agencies are able to avoid. This can be exacerbated by the presence of high-profile, controversial Indigenous politicians, each with their own political aims and needs. It is not necessarily a reason for the removal of such a body.

## The ATSIC review

It is important to note that the government’s moves to abolish ATSIC (and the Opposition’s pledge to do likewise) run contrary to many of the major recommendations of the review into ATSIC’s roles and functions commissioned by the government in November 2002. The review panel appointed by the government—which was comprised of former NSW Liberal state minister John Hannaford, Indigenous academic and Reconciliation Australia Co-Chair Jackie Huggins, and former federal Labor minister Bob Collins—was asked by the Government to ‘examine and make recommendations to government on how Aboriginal and Torres Strait Islander people can in the future be best represented in the process of the development of Commonwealth policies and programs to assist them’.<sup>46</sup>

The final report of the Review Panel, handed to the Government in November 2003, recommended against abolishing the body, though it concluded that ATSIC was in ‘urgent need of structural change’. For example, its recommendations included:

- an overhaul of ATSIC’s representative structure, in order to overcome the sense of detachment between local Indigenous communities and the national board
- a strengthening of, and increased emphasis on, regional planning processes
- a permanent delineation of the roles of ATSIC’s elected representatives and its administrative arm, but through amending the *Aboriginal and Torres Strait Islander Commission Act 1989* rather than the existence of a separate agency (ATSIS).<sup>47</sup>

In response to the Government's announcement that ATSIC would be abolished, review panel member Jackie Huggins was reported as being 'disappointed the Government had not accepted the review committee's recommendation to replace ATSIC with a different organisation designed to deliver better services'.<sup>48</sup>

## The abolition of ATSIC

With both the government and the Labor Opposition having announced their intentions to abolish ATSIC, what had been a bold experiment in the administration of Indigenous affairs at the time of its establishment now seems almost certain to be consigned to the dustbin of history, along with the earlier experiments in government-sponsored Indigenous elected representative structures (see Table 1). This part of the paper discusses the Government's proposed model for the administration of Indigenous affairs, and some of the issues raised by it.

Table 1: National Indigenous elected bodies 1973–2004

Name of elected body	Government at time of establishment	First election	Abolition	Government at time of abolition
National Aboriginal Consultative Committee	ALP	Nov 1973	May 1977	Coalition
National Aboriginal Conference	Coalition	Nov 1977	June 1985	ALP
Aboriginal and Torres Strait Islander Commission	ALP	Nov 1990	April 2004 (abolition announced)	Coalition

The Prime Minister, Mr Howard, and the Minister for Indigenous Affairs, Senator Amanda Vanstone, announced the Government's intention to abolish ATSIC on 15 April 2004:

... when Parliament resumes in May, we will introduce legislation to abolish ATSIC. ATSIC itself will be abolished with immediate effect from the passage of the legislation. The regional councils will be abolished by the 30th of June 2005.

Our goals in relation to indigenous affairs are to improve the outcomes and opportunities and hopes of indigenous people in areas of health, education and employment. We believe very strongly that the experiment in separate representation, elected representation, for indigenous people has been a failure. We will not replace ATSIC with an alternative body. We will appoint a group of distinguished indigenous people to advise the Government on a purely advisory basis in relation to aboriginal affairs. Programmes will be mainstreamed, but arrangements will be established to ensure that there is a major policy role for the Minister for Indigenous Affairs.<sup>49</sup>

The Aboriginal and Torres Strait Islander Commission Amendment Bill 2004 was subsequently introduced into the Parliament by Senator Vanstone in May. The Bill is now the subject of a Senate Select Committee inquiry, due to report in October of this year.

## **Proposed service delivery arrangements**

The major features of Indigenous-specific services and programs under the government's proposed post-ATSIC model are as follows:

- From 1 July, responsibility for programs formerly managed by ATSIC/ATSI was transferred to mainstream Commonwealth departments and agencies (for details, see Appendix).<sup>50</sup> There will also be arrangements in place so that resources for ATSIC programs (such as CDEP) which are transferred to departments are 'quarantined for future funding of indigenous programmes'.<sup>51</sup>
- ATSIC's Regional Councils will remain in place until 30 June 2005, occupying an advisory role.<sup>52</sup>
- An Office of Indigenous Policy Coordination has been created within the Department of Immigration and Multicultural and Indigenous Affairs to coordinate services and programs (taking over the responsibilities of ATSI, the former Office of Aboriginal and Torres Strait Islander Affairs, and the Indigenous Communities Coordination Taskforce).<sup>53</sup>
- From 1 July a network of 22 Indigenous Coordination Centres (ICCs), coordinated by the Office of Indigenous Policy Coordination and staffed by mainstream government agencies, replaced existing ATSIC-ATSI regional offices, and thereby took over the management of former ATSIC-ATSI programs.<sup>54</sup>
- To facilitate effective coordination between Ministers, there will be a Ministerial Taskforce on Indigenous Affairs, chaired by the Indigenous Affairs Minister, 'which will bring together all of the Ministers that have an interest'.<sup>55</sup>
- The Ministerial Taskforce will be supported by the Secretaries' Group on Indigenous Affairs, chaired by the Secretary of the Department of the Prime Minister and Cabinet, and which will include the secretaries of all departments with responsibility for Indigenous-specific programs and services.<sup>56</sup>
- The Commonwealth will work with the states and territories on improved ways to coordinate and deliver Indigenous services, within the framework of the Council of Australian Governments (COAG). In his press conference announcing the Government's decision to abolish ATSIC in April, Mr Howard said that the 'COAG trials in this area have been encouraging and have taught us a number of lessons, and I look forward to close cooperation with the states'.<sup>57</sup>

- Reconciliation remains a priority of the government, with \$15 million budgeted over four years, to ensure that Reconciliation Australia (the non-government organisation established after the Council for Aboriginal Reconciliation finished its ten-year term in 2000) ‘can continue its valuable work in promoting reconciliation in this country’.<sup>58</sup>

Some of the issues raised by the new arrangements, in particular those associated with the idea of ‘mainstreaming’, are discussed in further detail below.

## **Proposed representative and policy advice arrangements**

The government has proposed the establishment of a National Indigenous Council—comprised of ‘distinguished Aboriginal people’ appointed by the Government—to replace the ATSIC Board of Commissioners, and to provide advice on Indigenous affairs matters to the government.

A further issue relates to local and regional representative structures when the ATSIC Regional Councils cease to exist after 30 June 2005. In their statement announcing the abolition of ATSIC, Mr Howard and Senator Vanstone said that the new arrangements proposed by the government will not ‘preclude processes whereby indigenous people themselves will in different areas, according to their own priorities, elect bodies and people to represent them’. They further said that ‘the Government will in the course of consulting different sections of the community, be very keen to consult any bodies that may emerge from that process’.<sup>59</sup> While it is possible that the absence of a government-sponsored representative structure may lead to the emergence of more ‘organic’ Indigenous bodies and organisations (or the consolidation of the representative role of existing bodies, such as local Aboriginal land councils), it is difficult to see how such bodies will be able to form, and to operate, if there are no resources made available to support them. Further, there is a difference for Indigenous people, if only symbolic, between a privately-organised group and a government-established, elected body.

Some of the broader issues raised by the new arrangements for policy advice and representation are discussed further below.

## **The post-ATSIC future of Indigenous affairs**

With ATSIC apparently having reached the end of its road, what of the future for the provision of services for Indigenous people, and what of their position in the political system? This part of the paper discusses some of the issues raised by these questions.

### **‘Mainstreaming’**

A few weeks before the 29 April announcement, Prime Minister Howard had criticised ATSIC’s performance as an organisation designed to devise and implement policy for specific clients. In particular, the Prime Minister expressed his belief that Indigenous people needed their programmes delivered ‘in a mainstream way’, that is, delivered by

government departments and agencies with responsibility for all policies in a particular area.<sup>60</sup> A number of observers supported Mr Howard. Former ATSIC councillor, Stephen Hagan, called on his people to ‘embrace’ mainstreaming because of the opportunity it gave them to put pressure on the relevant bureaucrats to use the cash windfall from the abolition of ATSIC to ‘deliver for our people’.<sup>61</sup> Former Liberal Minister for Aboriginal Affairs (1978–80), Fred Chaney, also gave his support, stating his belief that mainstreaming made it harder for governments and their bureaucrats to avoid responsibility.<sup>62</sup>

By contrast, many Indigenous critics stepped forward. Noel Pearson of Cape York Partnerships has referred to the ‘old mainstreaming disaster’,<sup>63</sup> former ATSIC chair, Lowitja O’Donoghue claimed that there is ‘no guarantee that mainstreaming is going to improve anything’,<sup>64</sup> while ATSIC commissioner, Ray Robinson, criticised the Prime Minister’s ‘dangerous mainstream fantasy’.<sup>65</sup> According to recent media reports, the Senate Select Committee inquiry established to inquire into the Aboriginal and Torres Strait Islander Commission Amendment Bill 2004 and related matters has found ‘widespread concern over the mainstreaming of funding’.<sup>66</sup>

It must be noted that the emergence of ATSIC at the start of the 1990s did not actually mean the end of mainstreaming, because some policy areas—most notably health (after 1995/6) and education—remained within the normal departmental structure. There is a general agreement, however, that mainstreaming in the area of Indigenous services has never worked as well as governments hoped. A 2001 Commonwealth Grants Commission report into the funding of Indigenous programmes pinpointed many problems:<sup>67</sup>

- irrespective of where they might live, Indigenous Australians have made use of mainstream services at ‘very much lower rates’ than do non-Indigenous people;
- Indigenous people have encountered many barriers to their easily accessing government services—including the design of programmes, their funding, their presentation to users, and the cost to the users of accessing them;
- people living in remote areas have had the added problems of the distance needed to travel to access services—where such services existed;
- failure in mainstream programmes has put great pressure on Indigenous-specific programmes to undertake more than they were designed for; this has often removed the focus from the particular clients for whom the programmes were devised;
- despite the overall intention for Indigenous policy to reflect client needs, the Commission concluded that ‘it cannot be said that need ... [has been] the focus of funding distribution’;



- because most service provision is made by the states, the Commonwealth's influence has been necessarily limited; it has also been limited in relation to regional allocation of funds;
- many people at the local level believe their input into the policy process has been negligible, and that many collaborative policies have had little impact upon their communities; and
- even where improvements have been made, for example in regard to Medicare and the Pharmaceutical Benefits Scheme, they still have fallen short of the across-the-board improvements needed to address the disadvantage backlog.

Overall, the Commonwealth Grants Commission concluded that, while mainstream and Indigenous-specific programmes have often complemented each other, and both have been essential to meeting clear needs:

It is clear from all available evidence that mainstream services do not meet the needs of Indigenous people to the same extent as they meet the needs of non-Indigenous people.<sup>68</sup>

If the Commonwealth Grants Commission is correct in this view, the reimposition of mainstreaming *per se* seems unlikely to be a satisfactory way forward.

### **'Whole-of-government mainstreaming'**

The Gordon inquiry into family violence and child abuse in Western Australian Indigenous communities (2002) pointed to what it described as the problems with mainstream service delivery:

Individual agencies focus on one particular problem area (for example health or housing) when the problems experienced by Aboriginal communities are not separate and distinct. They are multi-faceted and interactive. An individual agency approach will never be able to respond adequately.<sup>69</sup>

This is the theme of *Connecting Government*, an Australian Public Service Commission report on what has been called a 'whole-of-government' approach to policy-making (in all areas of government, not just Indigenous affairs).<sup>70</sup> This report notes that a great deal of policy-making involves input from more agencies than just a mainstream government department, and that what is increasingly needed to satisfy public demands is collegiality in policy-making and, where needed, service delivery. All resources of government should, where necessary, be brought together to produce solutions to government service requirements. Most particularly, there must be a concerted effort to ensure that, as far as is possible, programmes are delivered 'seamlessly', that is, with as few bureaucratic restrictions as is possible to achieve.

The Secretary of the Department of the Prime Minister and Cabinet, Peter Shergold, has recently spoken of the pressing need to develop such a whole-of-government approach to

Commonwealth public administration.<sup>71</sup> He makes the point that ‘departmentalism’ hinders both effective policy development, as well as the efficiency of the services that are to be delivered. Taking structures such as interdepartmental committees as a guide, he believes that efforts to harness the relevant information from various agencies in a whole-of-government culture that emphasises collegiality, cooperation and open lines of communication, can produce policy that:

driven by creative tension between different perspectives, is better informed and argued than could have been provided by a single agency.

Dr Shergold has described this as ‘the rhetoric of connectivity’, and has claimed that the rhetoric will be given its biggest immediate test with the proposed broadening of mainstreaming in the area of Indigenous policy-making that will follow the abolition of ATSIC. He believes that all Indigenous policy-making requires nothing less than a ‘whole-of-government mainstreaming’, involving ‘collegiate leadership, collaborative government and community partnerships’. He sees this being marked by five characteristics:

- collaboration between the key agencies;
- a focus on regional need worked out with regional voices;
- flexibility of operation to enable administrative innovation to be undertaken free from the restraint of rigid programme guidelines;
- annual reporting against a series of socio-economic indicators; and
- an insistence upon the importance of joint leadership—‘a true test of collegiality’.

All of which is similar to the view expressed in 2003 by ATSIC’s Office of Evaluation and Audit. This called for ‘joined up’ government, wherein all agencies would work together in a common cause with Aboriginal and Torres Strait Islander communities to develop and implement ‘seamless’ program and service delivery.<sup>72</sup>

The 2004–05 Portfolio Budget Statement from the Immigration and Multicultural and Indigenous Affairs Portfolio has stated that the abolition of ATSIC saves an estimated \$79.1 million over four years. This saving, plus a projected cash balance of ATSIC funds totalling \$6.8 million, plus ATSI services of \$30.3 million over four years, ‘will be redirected to several high priority programmes’.<sup>73</sup> In the context of the whole-of-government approach, the Office of Indigenous Policy Coordination presumably will be a key player in the coordination of such programmes.

An analogous policy problem emerged in the USA during the 1980s, when mass homelessness became a major issue for the first time since the Great Depression. It was soon clear, however, that safety-net programmes provided by mainstream government agencies fell far short of providing the necessary relief policies. This was apparently due to a number of factors, including barriers caused by bureaucratic complexity, limited

eligibility, inconsistent procedures, service delivery systems that were insensitive to client needs, and the knock-on impact of government budget decisions that left programmes with reduced resources. Interestingly, the solution developed to make more efficient use of resources was the ‘single payer’ approach; that is, the government became the ‘whole-of-government’ policy coordinator with government agencies working together to find policy solutions.<sup>74</sup> The problems and the proposed solution bear a close resemblance to the issues and proposed solutions for policy-making and service delivery for Australia’s Indigenous people.

The test for all of these changes will be if there is measurable improvement in the actual delivery of services—and whether the services are appropriate to the needs of the Indigenous clients.

### **Operating within the Australian federal system**

Dr Shergold’s words suggest that future directions will be more carefully worked out than previously, but it will not necessarily be plain sailing, for policy-making in the Australian federal system can be very difficult. This is partly due to difficulties with the constitutional provisions that can make policy formulation slow, complex and often contradictory, but it is also a consequence of the natural antagonism between governments that has always been part of the politics of the federal system:

Responsibility sharing is a crucial element of Australia’s concurrent style of federalism. While the notion has great collaborative potential, it also has the potential to fall far short of cooperative ideals amidst inter-governmental and inter-organisational conflict.<sup>75</sup>

On the face of it, this should not necessarily be a problem in Indigenous affairs. The Commonwealth has the whip-hand in regard to governmental finances and the Commonwealth Grants Commission has long played a pivotal role in this area. Despite this, federal policy-making is an area fraught with difficulties.

Different governments have different perspectives that naturally affect their policies. The Commonwealth has a natural tendency to see policy from a national perspective, whereas a state or territory government tends to see the same policy area from the perspective of their part of the nation. In Indigenous education, for instance, the Commonwealth may have a target for the elimination of illiteracy across all communities, whereas the Northern Territory may have the specific problem of how to ensure that Indigenous children within their system actually develop the habit of attending (and remaining at) school.<sup>76</sup> State and territory perspectives are also likely to be affected by the view that they know what is best for their residents. The 2003 ATSIC review noted that submissions from most state and territory governments actually argued for the devolution of power over Indigenous matters back to state/territory administrations, presumably because of a belief that only then could these administrations deliver adequate policies to their clientele. This may also be a reflection of the view that these administrations need to protect their place in the political system, something that is never far from the thoughts of state and territory political

leaders. Finally, policy can be distorted by political considerations, whether this be brought about by different party policies or a looming election.<sup>77</sup>

This is a reminder that one hurdle the policy-makers must contend with is the national Constitution. Although the Commonwealth has the power gained in the 1967 referendum, the states and territories retain important powers in many relevant areas, including health, education, water services and social services. Importantly, the direct constitutional reach of the Commonwealth is limited—as the Constitution writers intended. As noted earlier, the Commonwealth Grants Commission has pinpointed this as a particular problem of earlier mainstreaming efforts.<sup>78</sup>

If this does not create difficulties enough, the system of government has many areas of administrative uncertainty that seem inevitable in political systems with federal constitutions. Who has the power to implement a policy? Who should be delivering it? Who should be turned to when delivery problems are experienced? Confusion is often the result for those who need particular government programmes to be operational, and the lack of clarity quite often makes it hard to sheet home responsibility for failures in policy delivery. Professor Larissa Behrendt has spoken of the ‘merry dance of cost-shifting between Federal and State governments on responsibility for service delivery’, that produces an overall ‘lack of clarity and vagary of responsibility’.<sup>79</sup> Fred Chaney has noted that the consequence has often been a failure to deliver the basic facilities needed by Indigenous Australians at a standard that the rest of the community regard as essential.<sup>80</sup>

Indigenous policy-making in Australia therefore requires some means of dealing with the restrictions placed on policy-makers by the federal system. Encouraging signposts showing a way forward that have emerged in recent years are the Council of Australian Governments Indigenous Coordination Trials (usually referred to as the ‘COAG Trials’). These are a whole-of-government set of trial programmes designed to provide:

more flexible programmes and services based on priorities agreed with communities through a partnership of shared responsibility.<sup>81</sup>

To date, a COAG trial has been established in each state and territory, each with a single Commonwealth agency responsible for its oversight (see Table 2).

Table 2: COAG Trial sites<sup>82</sup>

COAG Trial Site	Date trial site was announced	Responsible Agency
Wadeye (NT)	November 2002	Department of Family & Community Services
Cape York (QLD)	September 2002	Department of Employment & Workplace Relations
Anangu Pitjantjatjara Lands (SA)	May 2003	Department of Health & Ageing
Tjurabalan (WA)	July 2003	Department of Transport & Regional Services
Shepparton (VIC)	July 2003	Department of Employment & Workplace Relations
Tasmania	August 2003	Department of Immigration & Multicultural & Indigenous Affairs
Murdi Paaki (NSW)	September 2003	Department of Education, Science & Training
Australian Capital Territory	April 2004	Environment Australia

It is hoped that information gained from the early trials can be applied to a wide range of policy-making.<sup>83</sup> Even here, though, federalism can be a factor. One report has spoken of the COAG Trial initiative as ‘enormously positive’, but has also noted that early experience on the ground:

would suggest that more effort might be made in sorting out intergovernmental issues before agencies try to engage with communities.<sup>84</sup>

Critics of federal systems decry the fact that there is usually variation in programmes across the parts of the system—one state’s school system is likely to have differences from another state’s system. On the other hand, defenders of federalism will say that such variation is simply an indication that one part of the nation may see things differently from another part. Interestingly, Peter Shergold appears to have taken on board the federal ‘problem’ when he observes that the final arrangements for ‘whole-of-government mainstreaming’ in Indigenous affairs will in all likelihood involve ‘different consultative and delivery mechanisms negotiated in different States and Territories’.<sup>85</sup>

### **Establishing community needs and priorities**

There are many disadvantages suffered by Aboriginal and Torres Strait Islander people that need remedying, but what needs to be dealt with, in what order, and how speedily? Is it inadequate housing? Is it the poor state of Indigenous health, which results in unacceptably high infant deaths as well as a diminished life expectancy rate? Is it the continued rapid loss of Indigenous culture? Is it the high rate of unemployment? Undoubtedly the problems are complex, but where do governments start to seek remedies? Which solutions might be appropriate for some clients, but inappropriate for others?

We seem to be some distance from answering these questions well enough to be sure that government policies are as they should be. One significant difficulty is the result of the existence of important gaps in data collected by government agencies, whether at

Commonwealth, or state/territory level. A number of data difficulties exist that hinder the effective planning and delivery of suitable programmes for Indigenous people. For example, the national census presents unexpected difficulties, such as the level of accuracy of people's responses to some questions differing between regions. Even the figure giving the number of people living in each region—the most basic of planning tools—is thought by many observers to be unreliable.<sup>86</sup> Apart from census problems, the Commonwealth Grants Commission has found various other data problems:<sup>87</sup>

- a great deal of the data reflects met rather than unmet needs, therefore hindering resource allocation as 'they measure the wrong thing';
- the use of ATSIC regions as the basis of comparisons has hidden variations of need that might exist between locations within a single region; and
- data collected over several years is essential for the provision of improved outcomes, but such data is often sparse, though it has been improving over time.

Apart from these overarching problems, a study of ATSIC regional councils has revealed other difficulties. When councils have attempted to devise policies of relevance to the communities within their areas, for example, access to data has been difficult, partly due to the sensitive nature of much of the information, as well as the barriers created by legislative confidentiality restrictions.<sup>88</sup> Another data problem has been caused by the small population sizes in some regional council areas that have hindered the compilation of meaningful statistics in areas that were designed to be a key part of the planning and delivery structure.<sup>89</sup>

While there have been some moves afoot to improve both the availability and quality of data in the Indigenous affairs area in recent years,<sup>90</sup> the forthcoming changes to the planning of Indigenous policy will need to be accompanied by a concerted, continuous effort to improve the quality of available data if Indigenous needs and priorities are to be met satisfactorily.

### **'Ownership'**

It is therefore important to assess accurately the needs of Australia's Indigenous population, whether it be in relation to national issues, or issues specific to particular communities. An equally important question relates to the ownership of the decisions that are made to implement policies for the satisfaction of those needs. It has long been argued that for any Indigenous community to have confidence in the making of policy on its behalf, there has to be a sense of 'ownership' of that decision, if only through the tenuous link of voter and elected representative.<sup>91</sup> For much of the history of black-white relations any real sense of ownership was absent, and the creation of ATSIC with its regional structure has been the best-known attempt by Commonwealth governments to give Indigenous people some sense of participation. In the states and territories the major example has been the creation of local government based on Indigenous communities in

the Northern Territory. Both examples are in accord with experience in other countries where efforts to give Indigenous people a feeling of ownership are said to have been very fruitful:

Compelling evidence from around the world reveals that sustained and measurable improvements in social and economic well-being only occur when real decision-making power is vested in communities that build effective governing institutions reflecting the cultural values and beliefs of the people.<sup>92</sup>

The Commonwealth Grants Commission has stated that any improvement in the allocation of funds requires the ‘full and effective participation’ of Indigenous people in decisions relating to fund distribution and service delivery. To assist in this they should have a clearly defined role in the relevant decision-making.<sup>93</sup>

The many words written in the media since the news of the abolition of ATSIC have said little about that body’s activities in the regions and the communities. The collection of data, the establishment of community views, the pinpointing of needs and the development of remedial policies have been a largely uncontroversial part of the work of ATSIC’s regional structure. It has not been without its difficulties, caused by an unwieldy structure or the impact of community-level politics,<sup>94</sup> but many of its clientele have reportedly expressed their support for its structures and boundaries, seeing it as ‘a well-established and recognised framework and service delivery’.<sup>95</sup> As Bob Collins has put it:

A great deal of largely unrecognised good work has been done by ATSIC, most of it at regional council level, by both committed elected members and staff.<sup>96</sup>

This suggests that whatever the shape of the administration of Indigenous policy-making in the future, there would be merit in retaining some type of regional structure designed to give a real sense of ownership to the clientele. This might reduce the feeling that policy is made by faceless bureaucrats many miles away in Canberra or a state or territory capital. Ownership by the clientele is something recognised by Peter Shergold, when he states that mainstreaming ‘will focus on regional need’.<sup>97</sup>

It will be some time before the new arrangements for the delivery of services to Indigenous people are settled. However, there is widespread agreement that it is essential that the structures provide a guaranteed means for the recipients of the services to have input into the policy-making process.

### **Is there a place for an elected body?**

Current discussion and debate about ATSIC’s abolition are a reminder of the awkward place that elected Indigenous bodies have in the Australian political system. As discussed above, the NACC (1973–7), the NAC (1975–85), and ATSIC (1990–2004?) were all created as elected bodies, designed to give Indigenous people a prominent forum where they could be heard. The NACC and NAC were advisory bodies; ATSIC had both policy-

making and administrative roles. Whatever their functions, members of each body generally annoyed governments with their outspokenness, and each was abolished. In stating that ‘the experiment in elected representation for Indigenous people has been a failure’,<sup>98</sup> Prime Minister Howard was simply the most recent of a long line of government spokespersons to express government concern over criticism from government-established Indigenous bodies.<sup>99</sup>

The Prime Minister has stated that he believes ATSIC should be replaced by a body of ‘distinguished Indigenous people’ appointed by the Commonwealth Government. How successful would such a body be? The Deputy Prime Minister, John Anderson, sees a number of potential advantages that will emerge from the change:<sup>100</sup>

- skilled Indigenous people who lack a high public profile will be able ‘to become part of the decision-making process’
- it will ‘allow a greater input for innovation in policy approaches’
- the change will provide ‘a platform for untainted lobbying’
- it will provide ‘an avenue of leadership’ for Indigenous people who are ‘disenchanted by the ATSIC electoral process’
- ‘free and independent thinking’ can be encouraged, and
- it will see the end of a ‘stifling hierarchy’, allowing people of ability and goodwill to find answers to the many problems that must be tackled.

Overall, Mr Anderson sees the changes having the potential ‘to develop an autonomous framework for networking across government and industry for the purpose of improving the status of Aborigines’.<sup>101</sup>

On the other hand, many have claimed that there is a symbolic need for the creation of a new elected Indigenous body, irrespective of how weak any such creation might be. For example, ATSIC Sydney Regional Council chair, Marcia Ella Duncan, has said: ‘It’s not necessarily important to keep ATSIC, but it’s incredibly important for the Aboriginal community to have a representative voice’.<sup>102</sup> In the inaugural ANU Reconciliation Lecture, Patrick Dodson has said that a democratically-elected body modelled on international organisations should replace ATSIC.<sup>103</sup> The journalist, Laurie Oakes, has claimed that ‘Aboriginal people clearly want the dignity of some sort of electoral process’,<sup>104</sup> and the ALP has spoken of creating a body to provide ‘independent policy research and advocacy, delivering policy advice to government and the private sector, and monitoring policy outcomes’.<sup>105</sup> According to recent media reports, the Senate Select Committee inquiry on Indigenous Affairs has found ‘resounding support for [a] nationally elected Indigenous lobby group’.<sup>106</sup>



For example, one of the key roles of the ATSIC Board, and its two precursors, the National Aboriginal Consultative Committee (NACC) and the National Aboriginal Conference (NAC), was to advocate for Indigenous people on various issues. In particular, these bodies were active in advocating and promoting debate on Indigenous political rights issues. An appointed body whose role is only to advise government on policy matters will presumably be less inclined, and less able, to take up the role of Indigenous advocate played by ATSIC, and the NACC and NAC before it. One of the roles eagerly embraced by ATSIC during its existence was the representation of Australia's Indigenous people at various international forums, such as the UN Working Group on Indigenous Populations and the UN Permanent Forum on Indigenous Issues.<sup>107</sup> It is now unclear what, if any, representation Australia's Indigenous population will have in international forums previously attended by ATSIC representatives.

Is there no place for an elected body in Indigenous affairs? Is there a public relations aspect to the continuance of the Indigenous peoples' right to elect an organisation made up only of their own people? For a government, there might be more to be lost in its relations with the Indigenous community than would be gained if this franchise right were taken away. Interestingly, Peter Shergold seems to envisage some future role for an elected Indigenous body or elected Indigenous bodies, when he says that 'over time, the [government's] intention is to work with regional networks of *elected and representative indigenous organisations* in planning the delivery of government support to community endeavour' (emphasis added).<sup>108</sup> Creation of such a body might be less troublesome for a government than having prominent Indigenous people refusing to join an advisory body. One ATSIC Commissioner has suggested that such people would be seen by their peers as 'government lackeys', and has warned that 'the people will not recognise them'.<sup>109</sup>

### Whither 'self-determination'?

With ATSIC's demise, it is now pertinent to ask: just what is the place of Indigenous Australians in the political system? From one standpoint, the opportunity now exists for repairing what is seen as earlier damage to the political system. Former Liberal Minister for the Environment, Aborigines and the Arts (1971–2), Peter Howson, claims that elected Indigenous representation is no longer justified, and that 'politically' Australia's Indigenous population 'should be treated the same as other Australians'. In response to Indigenous claims that this would be 'to head back towards the pattern of assimilation', wherein the policy goal would be to assimilate Indigenous Australians into the mainstream society,<sup>110</sup> Howson claims it would in fact accord with the realities of modern Australian society:

The majority of Aborigines are part of the wider community. Their extensive integration [into Australian society] is reflected in the 70 per cent now married to non-indigenous spouses and professing Christianity, in the majority being of mixed descent, and in almost all speaking a non-indigenous language at home ... more than 70 per cent live in urban areas and Aboriginal employment rates there are not markedly lower than for others.<sup>111</sup>

While his data may be correct, Howson's view ignores the symbolic importance of the fact that successive governments have continued to reaffirm that Indigenous people have a place in the nation that is different from the vast majority of citizens. This is partly because of their status as the first inhabitants, and partly as the consequence of their requiring particular assistance from government. By any yardstick Indigenous people's conditions of living fall well behind those of the rest of the Australian population. The Aboriginal and Torres Strait Islander Social Justice Commissioner's *Social Justice Report 2003* has made this quite clear. In a wide range of indicators this could be measured: infant mortality, life expectancy, participation in the workforce, education retention rates, incarceration rates and child abuse figures are just a few.<sup>112</sup> The vast array of Indigenous-specific administrative agencies that have been in existence for many years, plus the fact that \$2.9bn has been allocated in the 2004–05 national budget for programmes for Indigenous people, indicate a continuing recognition of the special place of Indigenous people within the political system. The co-chair of Reconciliation Australia, Jackie Huggins, has noted that the budget allocation for her organisation of \$15m over four years is a 'reaffirmation of reconciliation as a defining issue' in contemporary Australian society.<sup>113</sup>

Although the term 'self-determination' seems now to be pushed aside, there is still much in declared government policy that seems to envisage Indigenous people playing an important role in their own lives. The Immigration and Multicultural and Indigenous Affairs Portfolio 2004–05 Portfolio Budget Statement specifies one of its major planned outcomes as being to *promote economic, social and cultural empowerment of Aboriginal and Torres Strait Islander peoples in order that they may freely exercise their rights equitably with other Australians*.<sup>114</sup> In this context, the word 'empowerment' suggests a continuation and a development of procedures designed to give Indigenous people every opportunity to have input into the development of policies of relevance to themselves. For example, the Budget Statement refers to the promotion of 'policies and processes that [will] help Indigenous Australians to achieve their aspirations' through:

- recognising Indigenous aspirations for individual and community self-reliance and self-management,
- developing policies that encourage Indigenous people to take primary responsibility for shaping a better future for themselves, their families, and future generations,
- helping Indigenous people to strengthen governance arrangements in their community organisations and supporting the development of community capacity,
- supporting the involvement of Indigenous people in the design, planning and delivery of services and community infrastructure, and
- seeking to ensure that Commonwealth agencies operate in an effective manner to meet the government's objectives; and

- contributing to achieving lasting reconciliation between Indigenous and non-Indigenous Australians.<sup>115</sup>

The task for governments—at both Commonwealth and state/territory level—is ensuring that the delivery of Indigenous programmes matches the rhetoric.

## Endnotes

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1. A. Pratt, '[Make or Break? A Background to the ATSIC Changes and the ATSIC Review](#)', *Current Issues Brief*, no. 29, Department of the Parliamentary Library, Canberra, 2002–03; and A. Pratt, '[ATSIC Review: Complex Challenges, No Simple Solutions](#)', *Research Note*, no. 5, Department of the Parliamentary Library, Canberra, 2003–04.
2. Some of the discussion contained in this part of the paper is based on A. Pratt, 'Make or Break?', op. cit.
3. M. Griffiths, *Aboriginal Affairs: A Short History 1788-1995*, Kangaroo Press, Kenthurst NSW, p. 8.
4. For a more detailed discussion of the origins of the Commonwealth's involvement in Indigenous affairs through the 1967 referendum, see John Gardiner-Garden, '[The Origin of Commonwealth Involvement in Indigenous Affairs and the 1967 Referendum](#)', *Background Paper*, no. 11, Department of the Parliamentary Library, 1996–97.
5. S. Bennett, *Aborigines and Political Power*, Allen and Unwin, Sydney, 1989, p. 25.
6. The appointees were the Chair, Dr H. C. Coombs, distinguished Australian diplomat Barrie Dexter, and prominent anthropologist Professor William Stanner. *Encyclopaedia of Aboriginal Australia CD-ROM*, 'Council for Aboriginal Affairs', Aboriginal Studies Press, 1994.
7. The OAA was later transferred to the Department of the Vice-President of the Executive Council, and then to the Department of the Environment, Aborigines and the Arts.
8. *Encyclopaedia of Aboriginal Australia CD-ROM*, 'Office of Aboriginal Affairs', Aboriginal Studies Press, 1994.
9. Bennett, op. cit., p. 41.
10. The program areas administered by the DAA were:
  - heritage, which included responsibility for issues of land for Aboriginal people, and heritage protection
  - public affairs, which included development of Aboriginal arts and cultures, broadcasting, and communications
  - social and legal services, which included responsibility for health, recreation, social support, law and justice, and substance abuse programs
  - community development, which included responsibility for Indigenous education, training, employment, housing, and community infrastructure programs.

- Encyclopaedia of Aboriginal Australia CD-ROM*, 'Department of Aboriginal Affairs', Aboriginal Studies Press, 1994.
11. T. Rowse, *Obligated to be Difficult: Nugget Coombs' Legacy in Indigenous Affairs*, Cambridge University Press, Melbourne, 2000, p. 107.
  12. W. Sanders, 'Reconciling Public Accountability and Aboriginal Self-Determination/Self-Management: Is ATSIC Succeeding?', *Australian Journal of Public Administration*, vol. 53, no. 4, December 1994, p. 487.
  13. According to Senator Herron, 'self-empowerment varies from self-determination in that it is a means to an end—ultimately social and economic equality—rather than an end in itself'. Cited in S. Bennett, *op. cit.*, p. 66.
  14. S. Bennett, *White Politics and Black Australians*, Allen & Unwin, Sydney, pp. 66–67.
  15. Sanders, *op. cit.*, p. 475.
  16. Bennett, *Aborigines and Political Power*, *op. cit.*, p. 93.
  17. Criticisms were also made of the infrequency of the NACC's meetings (which were only held once or twice per year), and of the meetings themselves (for example, there were no standing orders for debate).
  18. *Encyclopaedia of Aboriginal Australia CD-ROM*, 'NACC', Aboriginal Studies Press, 1994. See also Rowse, *op. cit.*, p. 120.
  19. Department of Aboriginal Affairs, *The Role of the National Aboriginal Consultative Committee—Report of the Committee of Inquiry*, AGPS, 1976, p. viii.
  20. The central difference between the two bodies was in their structure: the NAC was comprised of representatives elected to state branches, from which a ten-member national executive was elected. *Encyclopaedia of Aboriginal Australia CD-ROM*, 'National Aboriginal Conference', Aboriginal Studies Press, 1994.
  21. *ibid.*
  22. Bennett, *Aborigines and Political Power*, *op. cit.*, p. 94.
  23. *ibid.*, pp. 94–95.
  24. Rowse, *op. cit.*, p. 185.
  25. Senator the Hon. Susan Ryan, 'Summary of the ALP's Election Commitments to Aboriginal Affairs', 10 February 1983, Parliamentary Library collection.
  26. H. C. Coombs, *The Role of the National Aboriginal Conference: Report to the Hon. Clyde Holding, Minister for Aboriginal Affairs*, Department of Aboriginal Affairs, 1984, p. 14.
  27. *Encyclopaedia of Aboriginal Australia CD-ROM*, 'NACC', Aboriginal Studies Press, 1994.
  28. Sanders, *op. cit.*, p. 475; *Encyclopaedia of Aboriginal Australia CD-ROM*, 'Aboriginal Development Commission', Aboriginal Studies Press, 1994.
  29. The exception is the period between the NAC's disbandment and the creation of ATSIC.
  30. Sanders, *op. cit.*, p. 475.

31. The Hon. G. L. Hand, 'Speech: Foundations for the Future', House of Representatives, *Debates*, 10 December 1985, p. 3152.
32. During its consultations the Government's ATSIC proposal had not gained the support of all (or arguably, even most) Indigenous people or organisations. A significant group of detractors was the Aboriginal commissioners of the ADC, who were concerned that in an amalgamated body, welfare programs would be prioritised at the expense of the development programs that were the ADC's focus. Shortly after they expressed their opposition to the ATSIC proposal, however, Hand dismissed eight out of the ten ADC commissioners. This was widely assumed to be because of their opposition to the ATSIC proposal, though at the same time, the ADC had been clouded by allegations of 'very significant weaknesses' in its grant assessment and administration processes. See Sanders, *op. cit.*, pp. 475–6.
33. See, for example: Australian Audit Office, *Special Audit Report: The Aboriginal Development Commission and the Department of Aboriginal Affairs*, AGPS, 1989; Public Service Commission, *Report on Allegations about Personnel Management in the Department of Aboriginal Affairs*, AGPS, 1989; Department of Finance, *Report on Certain Staff Classification Matters in the Department of Aboriginal Affairs*, AGPS, 1989; Department of Finance, *Report on the Financial Management of the Aboriginal Development Commission*, AGPS, 1989; A. C. C. Menzies, *Inquiry into Allegations as to the Administration of Aboriginal Affairs: Final Report*, Department of the Prime Minister and Cabinet, 1989.
34. See, for example: Senator J. R. Short, 'Second Reading Speech: Aboriginal and Torres Strait Islander Commission Bill 1989', Senate, *Debates*, 18 August 1989, p. 392; Senator F. I. Bjelke-Peterson, 'Second Reading Speech: Aboriginal and Torres Strait Islander Commission Bill 1989', Senate, *Debates*, 30 August 1989, p. 639.
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## Appendix

### Transfer of ATSI-ATSIC functions from 1 July 2004

Program	Portfolio
Community development and employment; business development and assistance; home ownership	Employment and Workplace Relations
Community housing and infrastructure; Indigenous women	Family and Community Services
Art, culture and language; broadcasting services; sport and recreation; maintenance and protection of Indigenous heritage	Communication, Information Technology and the Arts
Legal and preventative; family violence prevention; legal services	Attorney-General
Access to effective family tracing and reunion services	Health and Ageing
Indigenous rights; international issues; native title and land rights; repatriation; Indigenous Land Fund; community participation agreements; Torres Strait Islanders on the mainland; planning and partnership development; public information	Immigration, Multicultural and Indigenous Affairs

Bodies	Portfolio
Aboriginal and Torres Strait Islander Services (ATSI)	Disbanded: programs taken over by mainstream agencies (see above); coordination functions taken over by Office of Indigenous Policy Coordination within Department of Immigration, Multicultural and Indigenous Affairs
Australian Institute of Aboriginal and Torres Strait Islander Studies	Education, Science and Training
Aboriginal Hostels Limited	Family and Community Services
Indigenous Business Australia	Employment and Workplace Relations
Indigenous Land Corporation; Torres Strait Regional Authority; Registrar of Aboriginal Corporations	Immigration, Multicultural and Indigenous Affairs
Office of Evaluation and Audit	Finance

(Source: Senator Amanda Vanstone, Minister for Immigration and Multicultural and Indigenous Affairs & Minister Assisting the Prime Minister for Reconciliation, *Australian Government Changes to Indigenous Affairs Services Commence Tomorrow*, media release, 30 June 2004)